

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

APPLE BUS COMPANY
Employer

and

ELIZABETH J. CHASE
Petitioner

Case 19-RD-216636

and

GENERAL TEAMSTERS LOCAL 959
Union

ORDER

The Petitioner's Fourth and Fifth Requests for Review of the Regional Director's determinations to hold the petition in abeyance are denied as they raise no substantial issues warranting review.¹

¹ In denying review, we rely solely on the fact that the fourth and fifth abeyance decisions were issued during the pendency of notice posting periods associated with settlement agreements in Case 19-CA-238757 and Cases 19-CA-242905 et al., respectively. We do not pass on whether the petitions were properly held in abeyance on the basis of the charge filed in Case 19-CA-246017 or on the basis of "extended monitoring periods" that the Regional Director decided to impose with respect to the settlement agreement in Cases 19-CA-230002 et al. We note that Cases 19-CA-230002 et al. have in any event now been closed on compliance.

We further note that both abeyance determinations predate the Board's recent decision in *Pinnacle Foods Group, LLC*, 368 NLRB No. 97 (2019), which clarified the circumstances under which a pending petition may be held in abeyance on the basis of a settlement agreement's remedial provisions. Any further action with respect to this petition must be consistent with the principles stated in that case. In that regard, as the Board noted in *Pinnacle Foods*, certain preelection actions may be taken with respect to a petition during the notice posting period associated with a settlement agreement. See Case Handling Manual Part 2 (Representation Proceedings) Sec. 11734. Absent good cause, we would expect that authority to be exercised here.

We are mindful of the fact that the petition in this case was filed on March 15, 2018 and has been held in abeyance since then on the basis of successive settled unfair labor practice charges, none of which have been resolved by a finding or admission that the Employer has violated the Act. While these settlements have evidently failed to prevent the filing of further unfair labor charges, they have served to significantly delay the processing of the petition. The question of whether the continued approval of similar settlements would effectuate the policies of the Act is not before us. Although we are troubled by the extreme delay in processing the

JOHN F. RING CHAIRMAN

MARVIN E. KAPLAN, MEMBER

WILLIAM J. EMANUEL, MEMBER

Dated, Washington, D.C., November 18, 2019.

petition, the circumstances currently before us fall short of establishing that the Regional Director abused his discretion under current law.

We observe that the Board recently issued a Notice of Proposed Rulemaking that addresses, among other things, possible changes to the Board's blocking charge policy. See Representation-Case Procedures: Elections Bars; Proof of Majority Support in Construction Industry Collective-Bargaining Relationships, 84 Fed. Reg. 39930-01 (proposed Aug. 12, 2019). For institutional reasons, we nevertheless apply extant law here in denying the Petitioner's Requests for Review.